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APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,953	11/26/2001	Toshiyasu L. Kuniti	13826	5231

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Dowell & Dowell, P.C.
Suite 309
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Arlington, VA 22202

EXAMINER

CUFF, MICHAEL A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,953

Applicant(s)

KUNII, TOSIYASU L.

Examiner

Michael Cuff

Art Unit

3627

(Handwritten signature)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 and 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-5 and 18-20 show a series of steps which are grounded in the abstract idea of, for example, conveying, determining, and completing. The broadly recited steps do not recite sufficient computer structure that are within "technological arts". Therefore, they do not satisfy the statutory requirements of 35 USC 101. See *In re Toma*, 197 USPQ 852 (CCPA 1978).

The changes to fix this issue are relatively minor. For example, Claim 1 could be re-written so that the second step read --generating a computerized Cellular Information Model ... --. Notice that claims 6-17 are fine because they recite a physical system.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunphy et al.

Dunphy et al teaches an electronic commercial transaction supporting system and method comprising the steps of: extracting correspondence/predetermined equivalence relations between attributes of a plurality of subjects (see col. 6, lines 8-25), wherein the relations are determined by respective viewpoints (see col. 3, lines 5-21); recording extracted correspondence relations to a cellular space (see col. 3, for example, lines 22-30), and presenting the relations at a stage of an electronic commercial transaction (see, for example, col. 1 , lines 15-23). The extracting, storing, and presenting are repeated cyclically in such a way as to effect feedback (see col. 6, lines 54-65).

Dunphy et al do not teach a plurality of shops connected to a network. Dunphy instead teaches a plurality of manufacturers (see col . 1 , lines 14-32). However, it is common in the art for manufacturers to also function as shops. It would have been obvious to employ manufacturers that also function as shops with the invention of Dunphy et al to allow for direct sales to increase profits.

Dunphy et al further teach a business information management system (101) comprising a first functional block which transversely refers to respective data tables of the plurality of manufacturers (see col. 3, lines 5-21)', a second functional block which detects a desired correspondence relation (see col. 3, for example, lines 22-30)*, and a third functional block which presents the detected desired correspondence at a stage of an electronic commercial transaction (see col. 1, for example, Fig. 8). Dunphy et al.

further teach the functional block that detects an inconsistent correspondence relation
(see col. 10, lines 30-39).

Claims 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunphy et al in view of Spiegel et al.

Dunphy et al teach all of the limitations detailed in paragraph 4 of this Office Action. Dunphy et al do not teach the step of accumulating extracted correspondence relations in a data table based on actual examples of an electronic commercial transaction. Spiegel et al teach a method of extracting attributes and accumulating them in a data table based on actual examples of an electronic commercial transaction (see, for example, Fig. 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Spiegel et al with the invention of Dunphy et al to accumulate attributes in a data table based on actual examples of an electronic commercial transactions to create a data table that meets consumer needs.

Response to Arguments

Applicant's arguments filed 9/15/04 have been fully considered but they are not persuasive.

Applicant argues issues about "cellular information theory". Since this element has been removed from the claims, the arguments are no longer relevant.

Applicant states that "the cellular information model is a novel technology for overcoming drawbacks in the relational database model by allowing attributes to be

selected" The examiner suggest that applicant specifically claim the novel features. "by allowing attributes to be selected" is merely using a search engine for a database. "manipulating attributes" can be merely a conversion to a standardized protocol. The use of the term "a Cellular Information Model" is merely a label for a model and carries no further limitations. "respective viewpoints" can be buyers and sellers. "attributes" can be just about anything descriptive.

Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 11/29/04
Michael Cuff
November 29, 2004